

Notice of Allowability

Application No.

10/602,108

Applicant(s)

WALKER ET AL.

Examiner

Marcus Menezes

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/22/07.
2. ☒ The allowed claim(s) is/are 12-25, 33-36 and 43-45.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

Katherine Mitchell
Primary Examiner



DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Taylor on October 23, 2007.

In application has been amended as follows:

In the Claims:

Claim 12, page 2, line 15, "substantially" has been deleted;

Claim 12, page 2, line 16, -- a bottom surface of -- has been inserted after "between";

Claim 12, page 2, line 16, -- , -- has been inserted after "housing";

Claim 12, page 2, line 17, -- further -- has been inserted after "clamping member";

Claim 14, page 3, line 9, "substantially" has been deleted;

Claim 14, page 3, line 10, -- a bottom surface of -- has been inserted after "between";

Claim 14, page 3, line 11, -- further -- has replaced "for";

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Claim 33, page 7, line 2, "substantially" has been deleted;

Claim 33, page 7, line 3, -- a bottom surface of -- has been inserted after "between";

Claim 33, page 7, line 3, -- , -- has been inserted after "handle";

Claim 33, page 7, line 3, -- further -- has been inserted after "cover piece";

Claim 35, page 7, line 12, "substantially" has been deleted;

Claim 35, page 8, line 1, -- a bottom surface of -- has been inserted after "between";

Claim 35, page 8, line 1, -- , -- has been inserted after "handle";

Claim 35, page 8, line 2, -- further -- has replaced "for";

Claim 43, page 9, line 12, "substantially" has been deleted;

Claim 43, page 9, line 13, -- a bottom surface of -- has been inserted after "between";

Allowable Subject Matter

Claims 12-25, 33-36 and 43-45 are allowed.

The following is an examiner's statement of reasons for allowance:

The applicant's independent claims have several similarities as well as differences with the Moody (US 6308378) and DeLuca et al. (US 6591456, hereinafter "DeLuca") patents. Both disclose a housing, a motor within the housing, a gripping

portion, a blister pack with flexible sheets defining a damping gel-containing chamber therebetween and at least one clamping member. However, the prior art of record does not disclose that none of the gel within said chamber is located between a bottom surface of said clamping member and the housing. Also, the prior art of record does not disclose that none of the gel within said chamber is located between a bottom surface of said gripping member or cover piece and the housing or handle. Further, there is no reason to modify DeLuca since the gel-containing portion, as shown in Figures 12 and 13, needs to be placed directly beneath the gripping portion/clamping member/cover piece (210,230,250) for said portion to be properly secured to the rest of the invention. (See first paragraph of column 7 of DeLuca).

None of the other prior art references whether taken alone or used in combination cure the deficiency of DeLuca. Thus, the prior art as a whole made of record does not disclose or suggest the structural arrangement or the combination of structure set forth in Applicant's claims. As a result, the Examiner believes Applicant's claims as presented are patentably distinct from the prior art of record and the general prior art pertaining to ergonomic handles.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

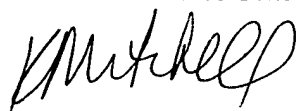
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Menezes whose telephone number is 571-272-6284. The examiner can normally be reached on 8:00am - 5:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marcus Menezes
Examiner
Art Unit 3677

/MM/ 


Katherine Mitchell
Primary Examiner